

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 321G.2, 321I.2, and 462A.16, the Natural Resource Commission hereby amends Chapter 44, “Boating, Special Events,” Iowa Administrative Code.

Notice of Intended Action was published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8462B**. A public hearing was held March 31, 2010, and one public comment was received.

The Notice proposed changes to fulfill statutory requirements regarding special events for snowmobiles and all-terrain vehicles (ATVs). This chapter previously contained only special event permit requirements for boating. These amendments add special event permit rules applicable to snowmobiles and ATVs and update rules for boating. These changes also address and support the Department’s new centralized special events application system.

The Department received a detailed comment about the amendments, and the response to it is as follows:

The commenter asked for clarification on the proposed new chapter title, as it suggested the rules applied only to the “Law Enforcement Bureau,” and special events on state lands and waters can impact several other bureaus in the Department. The Department agreed that the proposed title may be confusing and has changed the title to “Special Events.” Additionally, the Department has added language in rule 571—44.16(321G,321I,462A) that addresses situations in which multiple special events permits may be needed. Under this rule, and other applicable chapter changes in the Commission’s rules, acquisition of one permit from the Department is sufficient.

The commenter sought clarification in several definitions and proposed language to refine the use of “permit” in lieu of “authorization letter” throughout the chapter. The Department has made these proposed changes. At the commenter’s suggestion, the Department did not adopt the definition of “navigable waters,” as the term is not used in the chapter.

The commenter recommended refining rule 571—44.2(321G,321I,462A), which describes the applicability of these rules to lands and waters in the state. The Department has made that change and deleted repetitive clauses.

The commenter sought clarification on the application timeline contained in subrule 44.5(3). The Department has reworded the subrule to parallel the application time frames contained in other special event permit chapters.

The commenter suggested procedural changes in rule 571—44.6(321G,321I,462A), which describes the ability of an applicant to submit and use an alternate date for a special event. The Department has made appropriate changes to refine the notification and approval process for an alternate date.

The Department did not adopt three of the proposed new rules: the rule on inclusion of vehicles (proposed rule 571—44.9(321I)), the snowmobile special event rule (proposed rule 571—44.11(321G)), and the indemnification rule (proposed rule 571—44.15(321G,321I,462A)). The subjects of the first two are covered by other rules, and the latter is unnecessary due to the chapter’s insurance requirement. The remaining rules have been renumbered accordingly.

These amendments are intended to implement Iowa Code sections 321G.2, 321I.2, and 462A.16.

These amendments shall become effective July 7, 2010.

The following amendments are adopted.

ITEM 1. Amend **571—Chapter 44**, title, as follows:

BOATING, SPECIAL EVENTS

ITEM 2. Rescind rule 571—44.1(462A) and adopt the following new rule in lieu thereof:

571—44.1(321G,321I,462A) Definitions. For the purposes of this chapter, the following definitions shall apply:

“Administrative processing fee” means the fee collected for the processing of each special event application that is submitted for specific vessel, snow, and all-terrain vehicle events.

“All-terrain vehicle” or *“ATV”* means a motorized flotation-tire vehicle with not less than three and not more than six low-pressure tires that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,000 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

“Centralized special events application system” means the Web-based system used by applicants to submit applications for activities related to regulated vehicles and vessels which are permitted under this chapter. Approved applications shall be placed on a calendar of events Web page, accessible from the department’s homepage, to inform the general public of scheduled events on public land, ice, and water.

“Commission” means the natural resource commission.

“Demonstration” means an outward display showing how equipment works or items are used, with or without the intent to sell; a meeting, gathering, or parade; or a competitive event, tournament, or race.

“Department” means the Iowa department of natural resources.

“Exhibition” means the act or fact of exhibiting items or equipment; or a public show or display of items or equipment.

“Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. *“Off-road motorcycle”* includes a motorcycle that was originally issued a certificate of title and registered for highway use under Iowa Code chapter 321 but which contains design features that enable operation over natural terrain.

“Off-road utility vehicle” means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. A motorized vehicle that was previously titled or is currently titled under Iowa Code chapter 321 shall not be registered or operated as an off-road utility vehicle.

“Permit” means a document issued by the department that enumerates all stipulations, requirements, and contingencies that the applicant must accept and adhere to throughout the duration of the approved event.

“Program coordinator” means the person assigned from the snowmobile, all-terrain vehicle, and boating programs to coordinate the processing of special event applications and who serves as the primary contact for information about special events for the respective programs.

“Snowmobile” means a motorized vehicle weighing less than 1,000 pounds which uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread and which is designed for travel on snow or ice. *“Snowmobile”* does not include an all-terrain vehicle, as defined in Iowa Code section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

“Special event” means an organized race, tournament, exhibition, or demonstration of limited duration that is conducted on public land, ice, or waters of the state under the jurisdiction of the commission according to a prearranged schedule and in which general public interest is manifested.

“Vessel” means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are considered watercraft.

ITEM 3. Rescind rule 571—44.2(462A) and adopt the following **new** rule in lieu thereof:

571—44.2(321G,321I,462A) Applicability. These rules are applicable to all fee title and dedicated lands and all waters under the jurisdiction of the commission or those lands and waters managed by the commission for public access.

ITEM 4. Adopt the following new rules 571—44.3(321G,321I,462A) to 571—44.16(321G,321I,462A):

571—44.3(321G,321I,462A) Permit required. A permit issued by the department is required in order to conduct a special event as defined in this chapter on public land, ice, or waters under the jurisdiction of the natural resource commission, including dealer demonstrations. Any one of the following criteria may determine the need for a special event permit:

1. The event is open to the public.
2. The event charges an admission fee.
3. The event awards prizes.
4. The event promotes competitive events.
5. Attendance is solicited through advertising, invitation, or other solicitation.
6. The event may adversely impact the use of the area by others.

571—44.4(321G,321I,462A) Permit conditions. The department may impose conditions not specifically covered herein for any special event as deemed necessary to protect the resource or to ensure public safety. Such conditions shall be included in the permit issued by the department.

571—44.5(321G,321I,462A) Application procedures. The following procedures shall be used when applying for a special event permit:

44.5(1) Application shall be made on an electronic form accessed through the department's centralized special events application system.

44.5(2) The application shall be received electronically by the department via the centralized special events application system.

44.5(3) Applications shall be accepted beginning January 1 of a given year for requested tournament dates extending to March 1 of the following year and shall not be accepted later than 30 days prior to the requested date for tournaments.

44.5(4) The number of events to be held at any area on the same day may be restricted if deemed necessary to avoid congestion within the area so as to protect the resource. The commission shall consider the capacity of facilities such as boat ramps, docks, parking lots, and other area facilities and features when processing applications.

44.5(5) Permits are nontransferable.

571—44.6(321G,321I,462A) Alternate dates. Alternate dates for the event may be submitted by the applicant. The department may approve a submitted alternate date for the event. If an alternate date is approved, the primary date shall still be used unless unforeseen circumstances prevent its use. If an alternate date must be used for the event, the applicant shall contact the program coordinator at least one week in advance of the date on which the event shall take place to obtain final approval to use the alternate date. The program coordinator shall document this approval in writing. Upon approval of an alternate date, the applicant shall notify the local conservation officer, and the program coordinator shall update the calendar of events.

571—44.7(321G,321I,462A) Insurance coverage. The applicant shall secure event liability insurance and shall name the department as an additional insured. Insurance information shall be available at the time the application is submitted. The applicant shall have a copy of the insurance policy available at the event location to present to department personnel if requested.

571—44.8(321G,321I,462A) Fees. The administrative fee for processing each special event application is \$25. The fee is nonrefundable.

571—44.9(321G,321I,462A) Buildings or structures placed on ice during a special event. The following criteria apply to the placement, construction, or erection of structures placed on ice during a special event.

44.9(1) *Vendor information provided on application.* The applicant shall identify the names and addresses of any vendors who will be on site during the special event.

44.9(2) *Owner information.* The full name, street address, and city of the building or structure owner shall be displayed legibly in a color contrasting to the background on all sides of the building or structure in block letters at least four inches in height.

44.9(3) *Accessibility.* Buildings or structures shall not be locked when in use.

44.9(4) *Reflectors.* Buildings or structures shall have reflectors attached to all sides of the building or structure in such a manner to enable them to reflect light at all times from sunrise to sunset.

571—44.10(462A) Boating special events—registration exemptions. Vessels entered in special events shall not be required to be registered as stated in Iowa Code sections 462A.4 and 462A.5, subject to the following regulations.

44.10(1) *Vessel and participant list.* Sponsors of the special event shall maintain a list of the names and addresses of all persons participating in the event and a description of each vessel in the event.

44.10(2) *Vessels identified.* Each vessel in the special event shall be labeled with an identifying number or letter, which shall be clearly visible and which shall be recorded with the names and addresses of vessel passengers on the list as provided for in subrule 44.10(1).

44.10(3) *Exemption period.* Any vessel entered into a special event may be exempted from state registration requirements for the full 24-hour period of each day covered by the permit to conduct such event and as issued under Iowa Code section 462A.16.

571—44.11(462A) Mississippi River or Missouri River. A department special event application is not needed for fireworks or boating events on the Mississippi River or Missouri River upon notification and proof that a United States Coast Guard (U.S.C.G.) permit has been secured. The regional U.S.C.G. office issuing permits for Mississippi and Missouri River events is located in St. Louis, Missouri.

571—44.12(321G,321I,462A) Other Iowa Code provisions and permits. The applicant for a special event permit is responsible for ensuring full compliance with regulations of Iowa Code chapters 321G, 321I, and 462A and any other Iowa Code chapters and rules promulgated under those chapters that may be applicable for an event. Likewise, an applicant is required to acquire and comply with all applicable state and local permits issued by other state and local agencies necessary to hold the special event.

571—44.13(321G,321I,462A) Authority to cancel or stop an event. At any time that a conservation officer, park manager, or park ranger determines that a special event is not in compliance with the permit issued or that safety concerns warrant canceling or stopping the event, the conservation officer, park manager, or park ranger has the authority to do so.

571—44.14(321G,321I,462A) Future special event permits. The issuance of future permits to an applicant is contingent upon the applicant's compliance with past permits.

571—44.15(321G,321I,462A) Nonexclusive use of area. Issuance of a special event permit does not grant the applicant exclusive use of the land, water, or ice that is the subject of the permit unless the permit explicitly authorizes exclusive use.

571—44.16(321G,321I,462A) Other special events. These rules do not apply to special events that are governed exclusively by the department's parks bureau, fisheries bureau, or wildlife bureau, except to the extent that the authorization given under this chapter to use a concession in a state park fulfills the parks bureau's special event concession requirements in 571—Chapter 61.

ITEM 5. Adopt the following new implementation sentence in **571—Chapter 44**:
These rules are intended to implement Iowa Code sections 321G.2, 321I.2, and 462A.16.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/2/10.